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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,206	11/25/2003	William Hallen Falls JR.	MR1035-1346	4075
4586	7590	08/04/2005	EXAMINER	
ROSENBERG, KLEIN & LEE 3458 ELLICOTT CENTER DRIVE-SUITE 101 ELLICOTT CITY, MD 21043			DAHBOUR, FADI H	
			ART UNIT	PAPER NUMBER
			3743	

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

JP

**Office Action Summary**

Application No.

10/720,206

Applicant(s)

FALLS ET AL.

Examiner

Fadi H. Dahbour

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-9, 11-16, 18, 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by DeBusk ('128).

DeBusk discloses a surgical towel (see "surgical towel" in line 43 of col.2), comprising a sheet of woven fabric comprising at least one stitched hem (Figs.1-5), and at least one piece of x-ray detectable material enclosed in the hem (54 of Figs.1-5), the x-ray detectable material allowing indication of the surgical towel upon x-ray (see "can be identified through x-ray examination" in line 23 of col.6), wherein the x-ray detectable material comprises 60% BaSO<sub>4</sub> and 40% PVC (see "polyvinyl chloride filled with at least about 60%...barium sulfate" in lines 30-32 of col.4), wherein the sheet of woven fabric comprises cotton, synthetic material or a combination of these (see "cotton...or...combination" in lines 1-2 of col.4), wherein the sheet of woven fabric is single-ply (see "single" in line 1 of abstract), wherein the x-ray detectable material comprising shaped, coded, numbered, or identifying characteristics to identify an x-rayed object as a surgical towel (see "elongated...thread" in line 3 of abstract, also see "flat narrow ribbon" in line 39 of col.4), further comprising having four edges (Figs.1-5), at least one hem stitched in at least one of the four edges (Figs.1-5), a thread for stitching the at least one hem (Figs.1-5), at least one piece of x-ray detectable material enclosed in one of the at least one hem (Figs.1-5).

3. Claims 15, 19 are rejected under 35 U.S.C. 102(b) as being anticipated by DeBusk ('517).

DeBusk discloses a surgical towel (see "surgical towel" in line 9 of col.2), comprising a sheet of fabric (Figs.1-7), and at least one piece of x-ray detectable material attached to the sheet of fabric (14 of Figs.1-7), wherein the one piece of x-ray detectable material is stitched or woven into or ironed on the sheet of fabric (see "into the weave pattern" in line 56 of col.2).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 10, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeBusk ('128).

DeBusk, as described above, discloses all the features claimed except the thread being a different color than the fabric. It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have the thread being a different color than the fabric, because Applicant's specification states that "can be a different color" and "can be the same color" (see lines 20-21 of page 5). Thus, in Applicant's specification, a different color is not critical.

**Conclusion**


6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

DeBusk ('781), Zachry, Schradling et al, Madden, Neubardt and Shannon are cited to show surgical towels.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fadi H. Dahbour whose telephone number is 571-272-4792. The examiner can normally be reached on M-F, 9am-5:30pm est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett, can be reached on (571) 272-4791. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Fadi H. Dahbour  
Examiner  
Art Unit 3743